

# Memorandum

Date: April 8, 2002  
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to : Robert Pernell, Presiding Member  
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California Energy Commission - James W. Reede, Jr.  
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subject : **EL SEGUNDO POWER REDEVELOPMENT PROJECT STATUS REPORT #3**

Since the Committee issued its Schedule on December 3, 2001, Staff has received the critical path items from the Applicant. Specifically, the Noise information was submitted prior to the original due date of December 20<sup>th</sup>; the Impingement and Entrainment study was submitted on December 28<sup>th</sup>; and the SWPPP and Erosion Control information was submitted on January 10, 2002.

Staff issued data requests related to these submittals on February 6, 2002. The Applicant subsequently submitted responses and/or objections to these data requests on various dates thereafter. The most recent data responses were submitted by the Applicant on Monday, April 8, 2002.

Staff has worked diligently toward completion of its Supplement to the Staff Assessment and has now completed most sections requiring additional testimony except for the items identified below.

## SIGNIFICANT ISSUES

### BIOLOGICAL RESOURCES

The Applicant has an existing NPDES permit issued by the Los Angeles Regional Water Quality Control Board in 2000 that will be up for renewal in three years. However, the LARWQCB staff acknowledges that a federal Clean Water Act section 316(b) study performed by Southern California Edison in 1982 was relied upon for the last renewal of the plant's permit. That SCE study was not performed at the El Segundo facility but was a proxy study performed twenty years ago at another plant 55 miles from the project site. **No formal 316(b) study has ever been performed at the intake structures in question in this proceeding.** The LARWQCB staff has also informed Energy Commission staff during an inter-agency meeting that the regional board has no existing entrainment data from the project intakes nor to its knowledge has any ever been collected. Thus, while the project does have a current NPDES permit, the LARWQCB has deferred to the Commission on any CEQA issues related to entrainment and impingement for this Application for Certification.

Approximately 16 months ago Staff identified the need for and requested the Applicant to perform a one-year biological entrainment and impingement study at the existing El Segundo intake structure. This was to be accomplished using a study protocol similar or identical to that normally used when conducting such studies under federal Clean Water Act Section 316(b).

The Applicant was and remains unwilling to perform the biological analysis that Staff has requested. Instead, the Applicant offered to submit a surrogate report by mid-August of 2001. The Applicant submitted a report titled, "Supporting Impact Analysis of Entrainment and Impingement" on December 28, 2002. That report is based primarily on data collected at locations other than the actual intake structure at issue in this proceeding, and relies on protocols which are significantly different from those currently used in 316(b) studies.

Upon receipt of the Applicant's Entrainment Report, Staff prepared and submitted data requests, as authorized by the Committee. The Applicant initially objected to most of these data requests, but has since provided answers at various times (most recently on April 8, 2002) to virtually all of the questions that Staff asked. Therefore, the Motion To Compel Responses, which Staff filed with the Committee on March 1, 2002, is now moot.

After carefully reviewing the information provided to date by the Applicant, Staff has determined that the Applicant's submittals do not provide a sound scientific basis for concluding that the proposed project will not cause significant adverse biological impacts related to entrainment at the existing intake structure. Independent evaluations of the Applicant's Entrainment Report by staff of the National Marine Fisheries, California Department of Fish and Game, and the California Coastal Commission have reached the same conclusion regarding the inappropriateness of the Applicant's Analysis, and have also recommended the performance of a 316(b)-like entrainment study prior to licensing. In addition, the Coastal Commission is expected to issue a Coastal Act "inconsistency" finding at its April 9<sup>th</sup> meeting due to the lack of scientifically valid analysis and conclusions concerning marine impacts.

Due to these concerns over the lack of valid 316(b)-like studies to support the continued use of once through cooling at the proposed facility, Staff has begun an Alternative Cooling Options Study that could identify feasible methods to lessen or eliminate the potential aquatic biology impacts altogether. When finished, Staff will file this report for review and comment. However, at this time Staff's Supplement to the Biological Resources section is not complete.

***In summary, unless and until an adequate 316(b)-like entrainment study is performed by the Applicant, Staff cannot recommend approval of the project as it is now proposed.*** As a procedural matter, if the Committee orders the Applicant to perform the biological entrainment study in question, Staff is willing to bifurcate the Biological Resources section of the Supplement to the Staff Assessment and proceed with the remainder of this case while awaiting the results of that biological study.

## **AIR QUALITY**

The Final Determination of Compliance (PDOC) was issued February 14, 2002. Staff is completing its Supplement to the Staff Assessment and at this point is unable to recommend approval of the project due to significant and unmitigated PM10 emissions impacts. Impacts that have not been resolved include:

1. Direct project PM10 impacts stemming from a SCAQMD seldom-used Rule 1304 implementation. Rule 1304 allows exemption from standard district offset rules

when there is a replacement of a utility boiler with a combustion turbine. This rule requires the applicant to only offset 45% of its emissions based on the increase of capacity. This exemption however, does not abrogate the Commission's CEQA certification responsibilities;

2. Cumulative PM10 impacts stemming from the ESGS project and the adjacent Chevron Refinery MTBE cracking unit change-out and upgrade. The Chevron project is due to the MTBE ban implementation and ethanol changeover and does not have full mitigation either; and
3. The projections and high potential of secondary PM10 generation from an excess of unmitigated SOx emissions.

### **VISUAL RESOURCES**

There are still a number of visual resource issues outstanding. The Coastal Commission made a finding at its March 2002 meeting that the area is visually degraded, and the project as now proposed is inconsistent with the Coastal Act. This requires the applicant to enhance the visual quality of the project. The issues still needing resolution are the architectural treatment of the facility, the tank farm plan, and the photographic renderings necessary to complete analysis of these remaining concerns.

The City of Manhattan Beach has filed a Motion to Compel applicant's response to this issue that has not been resolved. Staff held a Visual and Noise workshop in El Segundo in early February 2002 to further address these two issues. The Applicant has proposed to submit new Visual information by May 10<sup>th</sup>. Staff proposes to hold an Issues Workshop in El Segundo within approximately two weeks of the submittal.

### **NOISE**

Staff has completed its Noise supplement. The February 2002 workshop was extremely productive in identifying the remaining issues and their resolution to Staff's satisfaction.

### **SOIL AND WATER**

The Staff Assessment of June 15, 2001 identified the need for the ESPR to conform with California Water Code section 13550, which requires the use of reclaimed water where available. Based on the outcome of the Alternative Cooling Analysis currently being performed, the issues may change relating to reclaimed and potable water usage. Staff will revisit the project design to determine compliance. The Coastal Commission will be addressing the remaining project issues in this subject area at its April 9<sup>th</sup> meeting.

**COMMUNITY AND AGENCY INTEREST:** The ESPR project is being closely followed by the beach communities of El Segundo and Manhattan Beach. About 50 members of local neighborhoods have attended the public workshops held in the past.

cc: El Segundo Proof of Service

**STAFF PROPOSED EL SEGUNDO AFC SCHEDULE**

<b>DAY*</b>	<b>DATE</b>	<b>ACTIVITY</b>
"n"	Dec-20	<b>Initial Critical Path Items Required from Applicant -</b>
"n"	<b>Jan 10 Actual</b>	<input checked="" type="checkbox"/> <b>Impingement &amp; Entrainment Verification Study</b> <input checked="" type="checkbox"/> <b>Enhanced Street Sweeping Proposal</b> <input checked="" type="checkbox"/> <b>Noise Study</b> <input checked="" type="checkbox"/> <b>Soil &amp; Groundwater Remediation Plan</b> <input checked="" type="checkbox"/> <b>Responses to All Data Requests Not Previously Submitted</b>
n + 30 n + 27	Jan-18 <b>Feb 6 Actual</b>	Last Clarifying Data Requests
	Feb 7 <b>Jan 23 Actual</b>	Data Response Workshop (not held) Noise and Visual Impact Workshops held
n + 45 n + 40 n + 69	Feb-4	Data Responses Filed <b>Feb 19 Objections filed – SCHEDULE TOLLING BEGINS</b> <b>Feb 22, 27, 28, March 20, April 3 and April 8, Data Responses Filed</b>
	<b>Feb14 Actual</b>	<input checked="" type="checkbox"/> <b>Final Determination of Compliance (FDOC)</b>
n + 70 n + 55	Feb-14* <b>Mar 6 Actual</b> <b>April 8</b>	<b>Report adopted by Coastal Commission</b> <b>Visual Report filed March 6<sup>th</sup></b> <b>Balance of Consistency Report Scheduled</b>
		Schedule tolled due to late Responses and Objections filed in February and March and Visual Proposal to be filed on May 10 <sup>th</sup> . New dates to be based on submission of Critical Path Items
Original Dates	<b>New Dates</b> based on Critical Path Items "n"	<b>Final Critical Path Items Required from Applicant</b> <input type="checkbox"/> <b>Visual Proposal</b> (Staff requires 45 days from Visual Proposal submittal to hold a workshop for review and comment and to produce a Supplement to Staff Assessment.) <input type="checkbox"/> <b>316(b) Study</b> (If required by the Committee)**
n + 75	N + 45	Staff files and serves "Supplement to Staff Assessment"
	N + 55	Staff Workshops on Supplement to Staff Assessment (per Staff)
n + 85	N + 65	Staff Files and Serves "Final Staff Assessment"
n + 100	N + 80	Committee Workshop(s) / Pre-hearing Conference
n + 100	N + 80	Committee Hearing Order
n + 110	N + 90	Testimony Filed and Served
n + 120	N + 100	Evidentiary Hearing (Possibly Preceded by Committee Workshops)
n + 150	N + 130	Presiding Member's Proposed Decision (PMPD) Issued (Based on 'noticed" PDOC); Begin 30-day Public Comment Period
n + 180	N + 160	End of Public Comment Period on PMPD
		Commission Decision on PMPD (Next Scheduled Business Meeting)
<b>Or, if Necessary</b>		
n + 185	N + 165	"Revised" PMPD Issued; Begin 15-day Public Comment Period
n + 200	N + 180	End of Public Comment Period on Revised PMPD
n + 205	N + 185	Decision on Revised PMPD

\* Schedule is tolled until required item is provided.

\*\* Staff will not recommend approval of this project without this study.